

OAH Docket No. 69-2500-9783-2

MPUC Docket No. G-001/GR-95-406

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Request of Interstate

Power Company for Authority to Change

Its Rates for Gas Service in Minnesota

PREHEARING ORDER

The above-entitled matter came on for Prehearing Conference pursuant to notice, on June 26, 1995, in the Public Utilities Commission's Large Hearing Room, 121 Seventh Place East, St. Paul, Minnesota, before Richard C. Luis, Administrative Law Judge. The matter was subsequently assigned to the undersigned Administrative Law Judge for hearing.

Appearances: Kent M. Ragsdale, Staff Counsel, and Steve Reisdorf, Director of Rates, Interstate Power Company, P.O. Box 769, 1000 Main Street, Dubuque, Iowa 52004-0769, for Interstate Power Company (Interstate). Dennis D. Ahlers and Ellen Gavin, Assistant Attorneys General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, for the Department of Public Service. Eric F. Swanson and Sara DeSanto, Assistant Attorneys General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, for the Office of the Attorney General. Susan Mackenzie,

Rates Analyst, 350 Metro Square, 121 - Seventh Place East, St. Paul, Minnesota
55101 for the Commission Staff.

Discussion was held among the participants who took part in the prehearing conference. Having considered all the arguments and comments, as well as written submissions filed by the participants, the Administrative Law Judge makes the following Prehearing Order:

INTERVENORS

1. Based upon their Petitions to Intervene and upon their statutory interest in the proceeding, the Department of Public Service (DPS) and the Office of the Attorney General (OAG) are each granted party status in this case.

2. The final date for intervention is August 11, 1995.

3. Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

SCHEDULE

4. Prefiled testimony shall be filed and served by overnight delivery by the dates indicated:

- a) Interstate direct testimony - filed with Petition and Supplements.
- b) Intervenors direct testimony - August 28, 1995.
- c) Rebuttal testimony - September 25, 1995.
- d) Surrebuttal testimony - October 9, 1995.

5. Public hearings to receive the testimony of the public and ratepayers in this matter shall be held in conjunction with two of the three public hearings on Interstate's proposed electric rate increase as follows:

- a) Wednesday, October 4, 1995, 7:00 p.m., in the Commissioner's Room, Freeborn County Court House, 411 South Broadway, Albert Lea, Minnesota. (Enter through east parking lot side door; persons with disabilities may enter through main door.)
- b) Thursday, October 5, 1995, at 7:00 p.m., at the Stewartville High School Cafeteria, Stewartville, Minnesota. (Enter through west parking lot and through gymnasium.)

6. The evidentiary hearing shall commence October 16, 1995, at 9:30 a.m. in the Commission's Large Hearing Room, 121 Seventh Place East, St. Paul, and continue on consecutive days as required.

7. The parties shall submit briefs and proposed findings of fact and conclusions, all appropriately referenced to the record, at such times after the close of the evidentiary hearings as shall be directed by the Administrative Law Judge.

PROCEDURE

8. The rules of the Office of Administrative Hearings shall govern the conduct of the hearings.

FILING OF DOCUMENTS

9. All prefiled testimony sponsored by all parties shall be filed with the Administrative Law Judge and served upon the parties in accordance with the above schedule. Except for good cause, all prefiled testimony shall be in question and answer format.

10. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a) Prior to the issuance of the Report of the Administrative Law Judge, the original documents shall be delivered or mailed to:

Steve M. Mihalchick
Administrative Law Judge

Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138

b) Following the Report of the Administrative Law Judge, original documents shall be filed with the Executive Secretary of the Commission.

c) Fifteen copies shall be filed with the Commission's Executive Secretary for distribution among Commissioners and Commission staff. The copies shall be delivered or mailed to:

Dr. Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147

d) A service list is attached hereto as Exhibit A. Service of documents shall be made according to the service list. The list may be revised as necessary by the Administrative Law Judge. Service shall be made according to the most current service list the Administrative Law Judge provides to the parties.

e) Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the

document is mailed or delivered to the Administrative Law Judge or to the Executive Secretary of the Commission.

f) Proof of service shall be filed with each filed document.

11. One copy of any document or information filed with or supplied to the Public Utilities Commission or the Commission staff relative to any issue in these proceedings which is not otherwise served on the parties or their attorneys pursuant to the foregoing hereof shall be served on the attorney of record for each party, or, if there is no attorney, upon the party.

12. Parties with the capability to do so shall file with the Administrative Law Judge 3½ inch, PC compatible, disks containing copies of all prefiled testimony, exhibits, briefs and proposed findings along with the printed copies of such documents.

DISCOVERY

13. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed to all parties of record. No such request shall be provided to the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within ten days from the date of the request. Data requests received after 12:00 noon shall be considered to be received on the next business day. Both information requests and responses may be made by facsimile. The information need not be supplied as a matter of course to all other parties. In the event the information cannot be supplied within the ten-day period, the responding party shall notify the requesting

party, in writing, within five days of the request to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party.

14. Further discovery may be had in accordance with Minn. R. 1400.6700 - 1400.6900.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

15. Prefiled direct, rebuttal and surrebuttal testimony shall not be bound into the record but shall be received as exhibits. Prefiled testimony not offered into the record shall be considered withdrawn and the witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties no later than five days prior to commencement of the evidentiary hearing, except that corrections to surrebuttal testimony shall be made at or before commencement of the evidentiary hearing.

16. Testimony in the evidentiary hearing shall be offered in the following order: Interstate, OAG, other intervenors in the order of their intervention, DPS. Cross-examination of the witnesses shall be conducted by the parties in the same order; provided, however, that parties shall not cross-examine their own witnesses.

17. Except for cause shown, any new affirmative matter that is not offered in reply to another party's direct case shall not be offered in rebuttal or surrebuttal

testimony and exhibits. However, the parties may raise in rebuttal or surrebuttal testimony affirmative matters in response to statements made by members of the public at the public hearings and new issues that arise on cross-examination during the course of the evidentiary hearing.

18. No later than five days prior to the commencement of the evidentiary hearing, each party shall submit to the Administrative Law Judge, the Commission and the other parties, a list of that party's witnesses and the order in which those witnesses will appear, indicating, if necessary, any day certain for testimony known to the party calling the witness. The final order of testimony will be as established by the Administrative Law Judge.

19. At the public hearings, members of the public shall be permitted to question the Company as well as any Intervenors present. The Company and Intervenors present are expected to respond to the public's questions. Statements made by members of the public may be considered substantive evidence in the discretion of the Administrative Law Judge.

EXAMINATION OF WITNESSES

20. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

21. Except for cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be

considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying a foundation for the testimony.

MISCELLANEOUS

22. Additional prehearing conferences may be held on dates determined by the Administrative Law Judge.

23. In the unusual case where the attorney for a party believes that an exhibit should not be disclosed to the opposing parties prior to oral examination, he or she may present a copy of the exhibit to the Administrative Law Judge with a brief memorandum of explanation in support and circulate copies of the exhibit to the other parties at the time of cross-examination.

24. Parties are encouraged to stipulate to evidence not in dispute and to narrow the scope of contested issues to the matters actually in dispute. If they do so, the parties shall file a joint statement of the stipulated facts and issues and identify the issues remaining to be resolved. All stipulations will be subject to public testimony to be received, acceptance by the Administrative Law Judge, and review by the Commission, which shall include the opportunity for the Commission or its staff to examine any

witness on the record irrespective of the existence of a stipulation between the parties with respect to such testimony.

Dated this 16th day of August, 1995.

STEVE M. MIHALCHICK

Administrative Law Judge